

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
STATESBORO DIVISION

WARREN SKILLERN,

Plaintiff,

v. **610CV035**

**MEDICAL CONTRACTORS; Nurse
HOWER; and JANE DOE, Nurse,**

Defendants.

ORDER

Plaintiff Warren Skillern has filed a Notice of Appeal (“NOA”), purportedly seeking review of “the Court’s [6/10/10] Magistrate ‘order.’” Doc. # 18. The Court construes Skillern’s NOA as a motion for leave to appeal *in forma pauperis* (IFP).

The Court notes at the outset that the Order Skillern seeks to appeal was in fact vacated shortly after entry. Doc. ## 13 (Order), 14 (Order vacating). The Court further notes that the Order he seeks to appeal pertained solely to Skillern’s previous appeal in this case, which the Eleventh Circuit recently dismissed as a result of Skillern’s failure to pay filing and docketing fees. Doc. # 16.

The Court denies Skillern’s implied IFP motion on other grounds, however. As the Court discussed when it denied Skillern IFP status in the previous appeal within this case, doc. # 9, Skillern’s status as a “three-strike” prohibits him from receiving IFP status except in particular circumstances.

Pursuant to 18 U.S.C. § 1915(g), “In no event shall a prisoner ... appeal a judgment in a civil action or proceeding [IFP] if the

prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.” Skillern has brought at least three civil actions or appeals which were dismissed and count as strikes under § 1915(g): (1) *Skillern v. Gault*, No. 02-13176-A (11th Cir. 8/27/02) (appeal dismissed as frivolous); (2) *Skillern v. Georgia Dept. of Corrections*, CV202-64 (N.D. Ga. 9/4/02) (dismissed for failing to state a claim); and (3) *Skillern v. Moss*, No. 03-10500-I (11th Cir. 6/3/03) (appeal dismissed as frivolous). Because Skillern has filed three previously dismissed cases or appeals which qualify as strikes under § 1915(g), he cannot proceed IFP on appeal unless his underlying claim meets the “imminent danger of serious physical injury” exception to § 1915(g).

As discussed in the previous Order, doc. # 9, Skillern has not previously made any allegations that fall within the purview of “imminent danger,” nor has his most recent NOA, doc. # 18, raised any issues potentially within that category. As a result, the exception to the three-strike rule does not apply.

For the foregoing reasons, Plaintiff Warren Skillern is **DENIED** IFP status on appeal. Doc. # 18.

This day of 7 July 2010.



B. AVANT EDENFIELD, JUDGE
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA